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PATENT

Attorney Docket No.: 27686/90105

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BOGLE & GATES P.L.L.C.

By: John R. Rivell

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Dunmire et al.

Patent No.: 5,503,176

Issued: April 2, 1996

Issue Batch No.: P76

For: BACKFLOW PREVENTOR WITH
ADJUSTABLE OUTFLOW
DIRECTION

Group Art Unit: 3407

Examiner: J. Rivell

**DELAYED LARGE ENTITY ISSUE
FEE 37 C.F.R. 1.28(c)**

Assistant Commissioner for Patents
Washington, D. C. 20231

Sir:

Enclosed herewith is a check for \$625.00 which is equal to the difference between the large entity issue fee and the small entity issue fee (37 C.F.R. 1.18(a)). It is unclear whether applicants were a large entity or a small entity as of the date of payment of the fee, December 14, 1995, and applicants are investigating this question. However, if the small entity fee was paid in error, any such error was made in good faith and applicants respectfully request that any such error, if it occurred, be excused in accordance with 37 C.F.R. 1.28(c). The facts are as follows:

1. Applicants received a Notice of Allowance with a mailing date of September 29, 1995 for the above-identified application. The small entity issue fee was paid on December 14, 1995 using the "Certificate of Mailing" procedure. On or about December 18, 1995, the undersigned received from the Assignee, CMB Industries, Inc., a copy of a wire service notice indicating that the Assignee had been acquired by Core Industries, Inc.

2. It is the undersigned's practice to review or verify small entity status for a pending application at the time of payment of an issue fee and at the time of payment of any maintenance fee. This practice appears to be in accordance with the procedure outlined in the MPEP 509.03 (page 500-22, rev. 1, September 1995) which states "this means that only four checks are required during the pendency and term of a patent after initial establishment of small entity status if such establishment is made prior to payment of the issue fee." Thus, in the present case, the undersigned properly checked for small entity status which

was believed to be correct at the time the small entity payment was made on December 14, 1995, and no further check was made (or, indeed, is contemplated under the MPEP procedures of 509.03) when the notice of the change of ownership was received on December 18, 1995. Accordingly, the payment which was made on December 14, 1995 on the basis of small entity status was made in good faith.

3. The undersigned reviewed the Assignment status of the above-identified patent on or about September 19, 1996, when it was determined that there had never been a recordation of an assignment of the above-identified patent to Core Industries, Inc., or to the current Assignee, CMB Industries, Inc., a Michigan corporation (which is different from the current Assignee of record, CMB Industries, Inc., a California corporation). Upon further reviewing the file, the undersigned thereupon realized that, while the small entity issue fee was paid in good faith on December 14, 1995, it was unclear whether the ownership of the above-identified patent transferred to Core Industries, Inc., after December 14, 1995. Applicants are currently making inquiries to determine the exact date of transfer of ownership of the above-identified patent to Core Industries, Inc. However, in order to avoid any question regarding the propriety of the small entity payment in connection with the above-identified patent, applicants are submitting, herewith, a check for the difference between the small entity fee which was paid and the large entity issue fee.

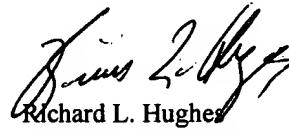
4. The undersigned declares, in accordance with 37 C.F.R. 1.28(b) that the current assignee of the above-identified patent is no longer entitled to small entity status.

In view of the above, the error occurred in good faith because the small entity fee payment was made by the undersigned before the undersigned received any notice that a transfer of ownership had occurred. Because it is still unclear when the transfer of ownership occurred, it is not yet known whether an error has occurred. However, if an error occurred, the error was discovered when the undersigned reviewed the assignment status for the above-identified patent, approximately September 19, 1996. Accordingly, applicants respectfully request that the error, if an error has occurred, be excused in accordance with 37 C.F.R. 1.28(c).

Although no additional fee is believed due in connection with this request, if a further fee is deemed due, please charge such fee to Deposit Account No. 02-2970.

Respectfully submitted,

BOGLE & GATES P.L.L.C.



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